

August 15, 2013

Newton Tedder, Physical Scientist
US EPA, Region 1
5 Post Office Square – Suite 100, Mail Code OEP 06-4
Boston, MA 02109-3912

RE: Draft 2013 New Hampshire Small Municipal Separate Storm Sewer System (MS4) General Permit

Dear Mr. Tedder,

Please accept the following comments regarding the draft 2013 New Hampshire Small Municipal Separate Storm Sewer System (MS4) General Permit issued by EPA on February 12, 2013. Of the twenty-six municipalities that makeup the Rockingham Planning Commission's region, twenty-five have some portion of their community within an urbanized area and are subject to the 2013 MS4 General Permit. Eight of these municipalities have received waivers from the permit. The remaining municipalities were all subject to the 2003 MS4 General Permit except for the town of Stratham that has been added as an MS4 community as of the 2013 permit. The draft 2013 MS4 General Permit is a major concern for the municipalities in our region due to limited resources and technical capacity to implement the permit conditions.

We wish to make the following observations, comments and recommendations with respect to the Draft Permit:

Regional and Intermunicipal Cooperation: For many aspects of permit compliance, municipalities will be required to conduct the same or similar tasks, such as public education, system and impervious area mapping, developing improved stormwater regulations and other aspects of a stormwater management program (SWMP). By working together in intermunicipal, regional or watershed associations on these essentially standard tasks, towns can stretch resources and technical capacity and lower their cost of compliance. With the exception of required public education and outreach (Section 2.3.2.1.b) the permit is not structured to either explicitly encourage or permit intermunicipal cooperation and the sharing of resources. The RPC recommends that language be included in the permit specifically allowing and encouraging municipalities to work together to reduce duplicative efforts and make better use of available municipal resources. In addition, we ask that you consider language in the permit that would allow municipalities to develop an intermunicipal and/or watershed based stormwater management programs (SWMPs).

Technical and Financial Assistance: To increase compliance and reduce the financial burden on municipalities, RPC requests that the EPA establish and support, either directly, or through the NHDES, a robust program to provide financial and technical assistance to increase municipalities' capacity to implement the permit. This financial assistance should be structured to support both specific municipal stormwater management program elements, as well as more general technical support including model documents (such as sample public education materials, sample contents of a municipal stormwater management program document (SWMP), a New Hampshire specific Stormwater Pollution Prevention Plan model, inventory and mapping protocols, stormwater management guidelines, etc.), training sessions for mapping and monitoring stormwater systems, and tools for tracking progress on the implementation of a municipal SWMP.

Compliance Timing: Overall, the general timeframe given for implementing the permit appears to be reasonable to allow municipalities to comply with the permit conditions provided sufficient resources are available. However, the timing of the effective date of the final permit will affect municipalities' ability to budget adequately to implement those conditions, and to take other town meeting actions. Due to municipal budget cycles in New Hampshire, having the permit effective date be in spring (after town meetings typically held in March) would allow for municipalities to appropriate necessary funds and take other actions as needed implementing the permit. Also, it would be helpful to clarify for municipalities that water quality impairments, problems and pollution sources are not required to be fully resolved or eliminated by the end of the first permit cycle. However, required mechanisms, practices, enforcement, and plans must be in place.

MS4/Urban Area Designation: Based on practical results seen in our region, we believe the current method for identifying MS4 areas is inadequate and outdated, especially when applied in smaller communities. In such cases the MS4 regulated areas do not correlate well to the areas within those communities that are most likely to generate significant stormwater discharges. MS4 area identification appears to rely too heavily on population density and not enough on the existence of concentrated areas of impervious surface. Locally and regionally the capability exists (through high resolution aerial photography and land cover mapping) to more accurately define and track large areas of impervious surface. The validity of the MS4 program is somewhat undermined in the minds of some local officials because of this poor correlation – where large areas of commercial strip development are outside the MS4 area, yet relatively benign areas of low and moderate density residential development are included. We recognize that the method of designation is not necessarily an issue that can be addressed through the Draft Permit, but it should be of concern to the program. We would urge EPA to consider a more refined method of MS4 area determination – and going forward, include a mechanism or process for municipalities, with adequate rationale, to modify their MS4 boundaries.

Finally, as I am sure you know, many of the municipalities in southeastern New Hampshire are dealing within increasingly stringent wastewater discharge permits due to the nitrogen impairment in the Great Bay Watershed. A much more integrated approach that links the MS4 program, NPDES permits, TMDL, and other water quality management programs is called for in this region – as Administrator Spaulding has himself said. We hope that you will support efforts such as those underway in the Oyster River (Durham) and the Exeter-Squamscott (Exeter/Stratham/Newfields) by supporting flexibility in the underlying permitting. We believe such an approach has the best chance of creating cost-effective solutions that have local support and achieve water quality improvements.

I appreciate the extended opportunity to comment of the Draft Permit. If you should have questions regarding these comments, please feel free to contact me at (603) 778-0885 or via e-mail at csinnott@rpc-nh.org.

Sincerely,



Cliff Sinnott,
RPC Executive Director

cc: Boards of Selectmen, RPC MS4 Communities
RPC Commissioners
Alison Watts, Southeast Watershed Alliance
Commissioner Tom Burack, NHDES